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UNCLAS ANKARA 005695

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SENSITIVE

E.O. 12958: N/A
TAGS: [ETRD](#) [KIPR](#) [TU](#)
SUBJECT: Turkey: European Commission Pushing on Data
Exclusivity

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1. (SBU) On September 29, Arslan Umut Ergezer, Economic and Trade Officer with the EC Representation in Turkey, discussed with Econoff the EC's newly-issued report on practices in the Turkish pharmaceuticals industry, particularly lack of data exclusivity protection. The Trade Barrier Report unsurprisingly finds that Turkey has not complied with the customs union and TRIPS Agreement requirements to implement this protection by 2000/2001. The report urges Turkey, by the end of October 2004, to implement data exclusivity or to agree to abide by a decision by the European Court of Justice. If Turkey agrees to neither of these options, the EC will begin formal WTO consultations. Ergezer also said that the report contemplates EU adoption of "trade defense measures" against Turkey, though he opined that trade sanctions are not likely to be imposed. Ergezer did not provide us with a copy of the report.

2. (SBU) Ergezer told us that EC officials had delivered the report to Turkey's Brussels delegation during the week of September 20, and that Trade Commissioner Lamy had pressed State Minister Tuzmen on data exclusivity several times, during the Euro-Med summit, as well as in a followup letter and telephone call.

3. (U) Note: Turkish officials contend that the TRIPS Agreement does not require data exclusivity protection, but have said that end-2007 is their target date for implementing protection for confidential test data. End Note.

4. (SBU) Comment: While the EC report is welcome and complement's USG efforts to bring forward Turkish implementation of data exclusivity, the GOT may not be spurred to action by the prospect of dispute settlement proceedings, which could drag on until close to the GOT implementation target in 2007. Given the enormous stake that Turkish generic manufacturers have in maintaining the status quo and their ability to successfully lobby the GOT, the GOT is not eager to address the issue.
Edelman